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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES -- GENERAL

Case No. **CV 08-7181-VBF**

Dated: **August 18, 2010**

Title: In re: Steven Jay Stanwyck -v-

PRESENT: HONORABLE VALERIE BAKER FAIRBANK, U.S. DISTRICT JUDGE

Joseph Remigio
Courtroom Deputy

None Present
Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS:

ATTORNEYS PRESENT FOR DEFENDANTS:

None Present

None Present

PROCEEDINGS (IN CHAMBERS):

COURT ORDER DISMISSING ACTION

On October 30, 2008, the Court received a Notice Regarding Appeal from Bankruptcy Court in this case. Dkt. 1. The history of this case is more fully set forth in the Court's Minute Order dated November 12, 2009. Dkt. 23.

On November 16, 2009, the Court continued its OSC re Payment of Transcript Fees and OSC re Dismissal to January 25, 2010, and directed Appellant, by January 25, 2010, to file proof of payment of transcripts or file an adequate response as to why the payment could not be submitted. Appellant did not file proof of payment or otherwise respond to the OSC. Dkt. 26. On January 26, 2010, the Court continued the OSC re Payment of Transcript Fees and OSC re Dismissal to February 23, 2010. Dkt. 26. Eventually, Appellant submitted evidence of payment of his transcript fees and the OSC re Payment of Transcript Fees was discharged. Dkts. 33.

On June 17, 2010, the Clerk issued a Notice Re: Briefing Schedule, which stated that Appellant's opening brief must be filed and served not later than July 1, 2010. Dkt. 37. On June 18, 2010, the OSC re Dismissal was discharged. Dkt. 38.

cc: Bankruptcy Court [2:07-bk-19183-SB]

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On June 30, 2010, Appellant filed a request for an extension of the deadline to file his opening brief. Dkt. 41. Pursuant to the request therein, the Court extended the deadline by which Appellant must file his opening brief until July 15, 2010. Dkt. 42. The Court stated: "Failure to file an opening brief by July 15, 2010 may result in dismissal of the appeal for failure to prosecute." Dkt. 42.

On July 14, 2010, Appellant filed a second request for an extension of the deadline to file his opening brief. Dkt. 43. Pursuant to the request therein, the Court extended the deadline by which Appellant must file his opening brief until August 2, 2010. Dkt. 44. The Court stated: "Failure to file an opening brief by August 2, 2010 may result in dismissal of the appeal for failure to prosecute. Further continuances are strongly disfavored." Dkt. 44.

On August 2, 2010, Appellant filed a third request for an extension of the deadline to file his opening brief. Dkt. 46. In light of the representations therein, the Court extended the deadline by which Appellant must file his opening brief until August 16, 2010. Dkt. 47. The Court stated:

"Failure to file an opening brief by August 16, 2010 may result in dismissal of the appeal for failure to prosecute. Further continuances are strongly disfavored. If any further continuances are requested, the Court shall require competent medical evidence, such as a declaration from a doctor or authenticated copy of hospital records, showing how Appellant's medical conditions prevent him from filing his opening brief. Such evidence may be filed under seal.

In addition, any further requests for continuance must be made no later than August 12, 2010 unless good cause is shown for a delay. The filing of a request for a continuance near, at, or after the date a filing is due is an ineffective way for Appellant to ensure compliance with Court deadlines, and may lead to the denial of the request and dismissal of this appeal."

Dkt. 47.

On August 16, 2010, Appellant filed a fourth request for an extension of the deadline to file his opening brief. Dkt. 48. In violation of this Court's order (dkt. 47), this fourth request for an extension did not include any competent medical evidence showing how Appellant's medical conditions prevent him from filing his opening brief. In further violation of this Court's order (dkt. 47), the fourth

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request for an extension was not filed until August 16, 2010, and did not show good cause why it could not have been filed on August 12, 2010. In addition, Appellants' have filed an Opposition To Fourth Application For Extension Of Time To File Appellant's Opening Brief (dkt. 49), which has merit.

In light of the history of this action, which dates back to October 2008, and in light of Appellant's multiple failures to comply with Court orders and prosecute this case, the Court hereby DENIES the fourth request for an extension of the deadline to file Appellant's opening brief (dkt. 47) and DISMISSES this appeal, with prejudice and in its entirety, for Appellant's violation of court orders and failure to prosecute. See Fed. R. Civ. P. 41(b).

All future dates in this action are vacated and this matter is closed.

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